

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

CARL REED,)	
)	
Plaintiff,)	
)	
v.)	NO. 3:07-0765
)	
YOUNG MEN'S CHRISTIAN ASSN.)	Judge Trauger/Bryant
(hereinafter "YMCA") USA,)	Jury Demand
et al.,)	
)	
Defendants.)	

TO: The Honorable Aleta a. Trauger

REPORT AND RECOMMENDATION

Defendants on June 2, 2008, filed their joint motion to dismiss the complaint with prejudice based upon plaintiff's failure to prosecute, failure to comply with a court order and failure to attend and participate in his deposition. (Docket Entry No. 52). Plaintiff has not responded to this motion, although the time period within which he is obligated to do so has expired.

On July 21, 2008, the undersigned Magistrate Judge entered an order to show cause directing the plaintiff to respond on or before Monday, August 4, 2008 to show cause why defendants' motion to dismiss should not be granted. Despite this order to show cause, plaintiff has responded neither to the order nor to defendants' motion to dismiss.

Local Rule 7.01(d) which addresses responses to motions, states in pertinent part as follows: "Failure to file a timely response shall indicate that there is no opposition to the motion."

RECOMMENDATION

For the reasons stated above, including plaintiff's failure to respond to defendants' motion to dismiss and his failure to respond to the court's order to show cause, the undersigned Magistrate Judge finds that defendants' motion to dismiss should be **GRANTED**, and that the complaint should be **DISMISSED** without prejudice for failure to prosecute and failure to attend and participate in his deposition.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 8th day of August 2008.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge